

**CALIFORNIA CODE OF REGULATIONS  
TITLE 14, DIVISION 1  
SUBDIVISION 4, OFFICE OF OIL SPILL PREVENTION AND RESPONSE  
CHAPTER 3. OIL SPILL PREVENTION AND RESPONSE PLANNING  
SUBCHAPTER 3. OIL SPILL CONTINGENCY PLANS  
SECTIONS 815.01 – 816.06**

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**815.03 PURPOSE AND SCOPE**

This subchapter sets forth planning requirements for oil spill prevention and response for tank vessels and marine facilities in California. The planning requirements specify that the owner/operator of a tank vessel or marine facility must own or have contracted for on-water recovery and storage resources sufficient to respond to all spills up to the ~~reasonable worst case spill (RWC).~~ calculated Response Planning Volume or the defined Daily Recovery Rate, whichever is less. A tank vessel owner/operator shall also demonstrate through contracts(s) or other approved means, the shoreline protection response resources necessary to protect each type of shoreline and all applicable sensitive sites as outlined in the appropriate Shoreline Protection Tables (SP Tables), incorporated by reference herein. Equipment in addition to that under contract must be identified, and a call-out procedure in place to access additional response resources if needed. For the purpose of meeting the regulatory requirements herein, contracts for booming, on-water recovery and storage, and shoreline protection services can only be made with OSROs Rated by the Office of Spill Prevention and Response. For other required services (e.g., shoreline clean-up, waste management, spill response management, etc.) contracts with non-rated OSROs may be used. ~~The regulations provide a method for calculating the amount of equipment necessary and provide response planning standards for the volumes of oil that each tank vessel and marine facility could expect to discharge under various scenarios. The planning volumes so calculated will dictate the amount of equipment and personnel that the owner/operators must have available at the time of a spill. This equipment must either be "non-cascadable" in the area where the marine facility is located, or the tank vessel normally transits, or must be "cascadable" to the region within the mandated time frames.~~

The equipment that the owner/operators have available must ~~also~~ be applicable to the areas of intended use. This subchapter requires that trajectory analyses be conducted for marine facilities to determine the probable areas of the coastline that could be impacted by a spill. The applicable SP Tables shall be used for tank vessels. Based on these trajectories and tables the owner/operators will be able to ascertain the type of equipment that must be available, such as

shallow-water skimmers, as well as the appropriate response strategies necessary to protect and clean up the shoreline types that could be affected. ~~For vessels, the trajectories established for the scenarios from the appropriate Area Contingency Plans (ACP) may be used for this purpose.~~ Tank vessel owner/operators shall demonstrate adequate emergency services as described, by sufficient in-house capability or a signed, valid contract with a vessel emergency services provider.

The information required by ~~these regulations~~ this subchapter must be submitted to the Office of Spill Prevention and Response (OSPR), and maintained by the owner/operator, in separate volumes. A principal volume will be compiled to contain all the required information, calculations, studies, maps and related data. A separate volume will be set up as a response manual and will contain only the information that response personnel will need at the time of a spill to facilitate the immediate notification and response actions that are mandated.

To the greatest extent possible, California has endeavored to be consistent with the scope and intent of the Federal oil spill response regulations and the Area Contingency Plans (ACP) completed by the U.S. Coast Guard, state agencies, and local governments, with public participation, as required by the Oil Pollution Act of 1990 (33 USC 2701, et seq.). Allowance has been made to accept response plans prepared for the U.S. Coast Guard, or other appropriate agencies, in lieu of some of the information the contingency plans required by this subchapter ~~state regulations~~. Any additional information required by this subchapter can be submitted simply as an addendum to the plans prepared for other agencies. Information developed to demonstrate compliance with other applicable Federal, State, and International (e.g., International Maritime Organization, etc.) requirements may be used to demonstrate compliance with all or part of this subchapter.

~~In addition, the Area Contingency Plans (ACP) completed by the Coast Guard, State Agencies, and Local Governments, with public participation, as required by the Oil Pollution Act of 1990 (33 USC 2701, et seq.), shall be used as guidelines for determining whether the individual contingency plans provide for the best achievable protection. Some of the documentation from the Area Contingency Plans may be used by the plan holder in lieu of developing comparable documentation of their own for their individual contingency plans.~~

Note: Authority cited: Sections 8670.28 and 8670.29, Government Code. Reference: Sections 8670.3, 8670.4, ~~and 8670.28 and 8670.29~~, Government Code.

#### 815.05 DEFINITIONS

In addition to the definitions in Chapter 1, Section 790 of this subdivision, the following definitions shall govern the construction of this subchapter. Where similar terms are defined, the following will supersede the definition in Chapter 1:

(a) "Area Exercise" means an exercise of the Area Contingency Plan and selected oil spill contingency plans through the combination of tabletop and equipment deployment exercises in accordance with the National Preparedness for Response Exercise Program.

(b) "Contract or Other Approved Means" :

(1) includes either of the following:

- (A) A written, signed contract, or written certification of active membership, between a plan holder and an Oil Spill Response Organization(s) (OSRO) rated by OSPR (as specified in Section 819 of this subchapter) ~~or a contract with a nonprofit maritime association (pursuant to CCR Section 826.01(a)(1)(B)) that utilizes Rated OSROs for the rating levels and services required.~~ This contract shall identify and ensure the availability of the required personnel and equipment capable of responding to an oil spill within the stipulated response times and in the specified Geographic Regions in which the tank vessel or marine facility operates; or
  - (B) Written certification that the necessary personnel and equipment are owned or operated by the plan holder and are available within the stipulated response times and in the specified Geographic Regions;
- (2) The owner/operator shall notify the Administrator within five days of a change in contracted resources/membership ~~in~~ with a local or regional OSRO.
- (3) A contract between a plan holder and an OSRO shall not contain a provision requiring the plan holder to notify the OSRO in advance, in order to guarantee response services for two hours and beyond (as specified in Section 819.04(b)(2) of this subchapter). For spill response coverage during oil transfer operations, advance notice to the OSRO is allowed. A plan holder shall comply with all other applicable contractual provisions or the contingency plan will immediately be nullified, and the plan holder will be operating in marine waters without an approved contingency plan, which is in violation of Section 816.06(c) of this subchapter.
- (c) “Dedicated Response Resources” means equipment and personnel committed solely to oil spill response, containment, and cleanup that are not used for any other activity that would adversely affect the ability of that equipment and personnel to provide oil spill response services in the time frames for which the equipment and personnel are Rated. Ratings of six hours or earlier require either dedicated response resources or OSRO-owned and controlled response resources, as specified in Section 819.04(b)(2) of this subchapter.
- (d) “Equipment Deployment Exercise” means an exercise of oil spill response equipment identified in a oil spill contingency plan or an OSRO application, through its actual deployment and operation as it would be used in spill response efforts in an environment of similar water depth, current velocity, tidal range, and substrate, to the environment where the equipment may need to be used in an actual oil spill response.
- (e) “Full Scale Combination Exercise” means an exercise of an oil spill contingency plan involving both the spill management response efforts and the actual deployment and operation of oil spill response equipment as it would be used in spill response efforts at a specific site.
- (f) "Implementation of the Plan" means that all essential provisions have been taken to enable the plan or any portion of the plan to become operational.
- (g) “Innocent Passage” means navigation through the territorial sea for the purpose of traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters. Passage shall be continuous and expeditious. However, passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

(g) ~~“Internal Unannounced Exercise” means an exercise of an oil spill contingency plan organized by an owner/operator or oil spill response organization and initiated so exercise participants have no prior knowledge of the exercise.~~

(h) "Letter of Approval" means a letter or other written document conveyance issued by the Office of Oil Spill Prevention and Response ~~to an OSRO or~~ to the owner/operator of a vessel or marine facility plan holder following verification, inspection and if required by the Administrator, satisfactory performance in an announced and unannounced drill, and final review of ~~the OSRO's application for approval, or~~ the facility or vessel plan holder's contingency plan.

(i) "Marine Waters", ~~for this subchapter,~~ means those California marine waters subject to tidal influence and includes ~~including~~ all waterways used for waterborne commercial vessel traffic to the Port of Stockton and the Port of Sacramento.

(j) "Non-Dedicated Response Resources" means those response resources listed by an OSRO for oil spill response activities that are not dedicated response resources.

(k) "OSRO-Owned and Controlled Resources" means equipment owned by the OSRO and personnel who are employed directly by the OSRO.

(l) "OSRO Rating Letter (ORL)" means a written document issued by the Office of Spill Prevention and Response to an OSRO following verification, inspection and unless exempted by the Administrator, satisfactory performance in an announced and unannounced drill, and final review of the OSRO's application.

(m) "Plan Holder" means the owner/operator of a tank vessel, nontank vessel, ~~or~~ marine facility, small marine fueling facility, or vessel carrying oil as secondary cargo responsible for the development, submittal, update, maintenance of, and compliance with the oil spill contingency plan required under this subchapter.

(n) "Plan Recipient" means a receiving agency and any other entity ~~who~~ that has been designated in this subchapter to receive a copy of the tank vessel or marine facility oil spill contingency plan.

(o) "Shallow-Draft Vessel" means:

(1) for purposes of boom deployment, a vessel that must be able to operate in water depths of two feet or less;

(2) for purposes of skimming operations, a vessel and attendant skimming system that must be able to operate in water depths of three feet or less.

(p) "Spill Management Team" means the personnel identified in an oil spill contingency plan to staff the organizational structure that will manage response implementation and is able to fully integrate into a an Incident Command/Unified Command structure, as required by the National Contingency Plan and the ~~State Marine~~ California Oil Spill Contingency Plan.

(q) "Systems Approach" means an assessment of the infrastructure and the support resources that an OSRO must have to mobilize, transport, deploy, sustain, and support the equipment resources necessary for the level of response for which Rated.

(r) “Tabletop Exercise” means an exercise of an oil spill contingency plan and the spill management response efforts without the deployment of response equipment. A tabletop exercise usually involves the enactment of a response to a simulated spill.

(s) “Unannounced Drill” means an exercise of an oil spill contingency plan or an OSRO application initiated by OSPR without prior notice to the plan holder or oil spill response organization.

Note: Authority cited: Sections 8670.28, 8670.29 and 8670.30 , Government Code.  
Reference: Sections 8670.3, and 8670.28, 8670.29, and 8670.30, Government Code.

## 815.07 GENERAL REQUIREMENTS

- (a) Plan holders shall only contract with an OSRO(s) that has received a Rating by OSPR (as specified in Section 819 of this subchapter) for the booming, on-water recovery and storage, and shoreline protection services required. An OSROs existing Letter of Approval issued from the Administrator shall remain valid unless revoked and shall be deemed to meet the requirements of this subchapter for three years from the date of the letter’s issuance ~~or until January 1, 2003, whichever date occurs later.~~
- (b) No person shall load oil onto, nor unload oil from a tank vessel unless the following conditions are met prior to transfer operations:
- (1) after initial submittal but prior to approval of the contingency plan, the tank vessel owner/operator must provide the owner/operator of the marine terminal with a copy of the letter acknowledging the receipt of the tank vessel's oil spill contingency plan by the Administrator, if the terminal owner/operator does not already have such a letter on file;
  - (2) after approval of the initial submittal of the contingency plan, the owner/operator of the tank vessel must provide the owner/operator of the marine terminal with a copy of the letter approving the current oil spill contingency plan for that tank vessel if the terminal owner/operator does not already have such a letter on file;
  - (3) the tank vessel owner/operator must notify the terminal owner/operator of any change in the approval status not reflected by the letter on file at that terminal; and
  - (4) the owner/operator of the tank vessel must certify that a complete copy of the response manual for that tank vessel is on board the tank vessel.
- ~~(c) Responsibility for initial notification of a spill that occurs during transfer operations will be determined as part of the pre-transfer agreement made between the vessel and the facility. This agreement should specify who will be responsible for notification of the appropriate state and federal agencies. After an initial notification is complete, the responsible party shall activate its oil spill contingency plan as necessary to effect response and clean-up procedures. If the responsible party can not be immediately identified, the pre-transfer agreement should specify which party will activate their oil spill response plan until a responsible party can be determined by the State Incident Commander or the Federal On-Scene Coordinator through the Unified Command.~~

- (~~dc~~) Each plan shall provide for the best achievable protection of coastal and marine resources and shall ensure that all areas addressed by the plan are at all times protected by prevention, response, containment and clean-up equipment and operations.
- (~~ed~~) Each plan shall be consistent with the ~~State Marine California~~ Oil Spill Contingency Plan and not in conflict with the National Oil & Hazardous Substances Pollution Contingency Plan, or the applicable Federal Area Contingency Plans.
- (~~fe~~) Nothing in ~~these regulations~~ this subchapter shall, in any manner or respect, impair or limit the authority of the California Coastal Commission to review federal activities, federal development projects, or federally-permitted or licensed activities, as authorized pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C., Section 1451 et seq.). Nor shall ~~these regulations~~ this subchapter impair or limit the authority of the California Coastal Commission to ensure such activities or projects are performed in a manner that is consistent, to the extent required by applicable law, with the enforceable policies of the California Coastal Management Program.
- (~~gf~~) All plans must be written in English, and for tank vessel plans, if applicable, the response manual portion shall also be in a language that is understood by the crew members responsible for carrying out the plan.

Note: Authority cited: Sections 8670.28, 8670.29 and 8670.30, Government Code. Reference: Sections 8670.28, 8670.29 and 8670.30, Government Code.

## 816 PLAN SUBMITTAL, REVIEW AND APPROVAL

### 816.01 PLAN SUBMITTAL

- (a) Plans  
Unless otherwise exempt, each owner/operator of a tank vessel or marine facility shall prepare and submit an oil spill contingency plan for that tank vessel or facility. The plan may be specific to an individual facility or tank vessel or may be composed as follows:
- (1) Marine Facility Blanket Plans:
- (A) Blanket contingency plans may be submitted for marine facilities that are substantially similar to one another based on the criteria in this subsection. The owner/operator must request approval for the use of a blanket plan prior to submitting the plan to the Administrator. The request must include a justification for the use of a blanket plan based on the criteria outlined in this subsection.
- (B) The Administrator shall determine whether a blanket plan is appropriate for any given group of marine facilities. In order to utilize a blanket plan, each marine facility covered by the blanket must demonstrate the following:
1. each facility must be substantially similar in layout and design, or must be an integral part of another facility, such as the pipeline connecting a platform to a shoreside facility;
  2. each facility must handle the same products;
  3. the Risk and Hazard Analysis for each facility must show substantially similar risks of a spill, and similar sites of potential leakage or spills;

4. the response equipment and personnel must be able to respond to any and all of the covered marine facilities in the same or essentially the same amount of time;
5. any spill from any of the marine facilities must pose similar risks in the same or essentially the same ~~g~~Geographical ~~r~~Region, including risks to the same environmentally economically or culturally sensitive sites ~~areas~~; and
6. The prevention measures as specified in Subsections 817.02.(c) or 817.03(c) must be substantially the same for each facility.

(C) A separate appendix for each marine facility covered by the Blanket Plan must be included as an attachment to the plan.

(2) Tank Vessel Fleet Plans

Fleet contingency plans may be submitted by an owner/operator that has a number of tank vessels that transit the same or substantially the same routes in California marine waters.

(A) All prevention and response elements required pursuant to Sections 818.02(c) or 818.03(c) must be the same for the tank vessels included in the Fleet Plan.

(B) A separate appendix for each tank vessel covered by the Fleet Plan must be included as an attachment to the plan.

(3) Substitute Plans

(A) Plans of other Federal and State Agencies

Any plan, or appropriate section thereof, submitted to the Federal Environmental Protection Agency, the Minerals Management Service, the U.S. Coast Guard, the Department of Transportation - Research and Special Programs Administration, the California State Lands Commission, the California Coastal Commission, other states, or other appropriate agencies may be submitted in substitution for all or part of the plan required under this subchapter ~~section~~. This substitution may include documents submitted in compliance with the International Safety Management (ISM) Code. Any information required by this subchapter that is not included in the substitute plan must be submitted as an appendix to that plan. The Administrator will determine if the use of a substitute plan is appropriate prior to final plan approval.

~~(B) Regional Response Plans~~

~~1. An oil spill contingency plan for a specific geographic region may be prepared and submitted for use by the marine facilities or vessels in that region. Such a plan must specify which of the required elements in Sections 817.02 or 817.03 for facilities, or Sections 818.02 or 818.03 for vessels will be included in the regional plan.~~

~~2. A marine facility or vessel owner/operator within the geographic region covered by the regional plan may contract for use of that plan in substitution for all or part of the contingency plan required by this subchapter. Any additional requirements not included in the regional plan must be submitted as an appendix to the regional plan.~~

~~3. The Administrator shall determine when all or part of a regional plan is appropriate for a given area. The plan holder must request approval from the Administrator before submitting a regional contingency plan.~~

~~4. Absent such an approved regional response plan, the applicable ACP may be used for this purpose.~~

(~~CB~~) Rated OSRO Rating Letter:

An OSRO Rating Letter will be issued for the equipment, personnel, and services which may be provided to the owner/operator of a marine facility or tank vessel or nontank vessel. A copy of the Rating letter may be submitted in substitution for all or part of the response elements required under Sections 817.02, 817.03, 818.02 or 818.03.

1. An OSRO Rating does not guarantee the performance of an OSRO, nor does the use of an OSPR-Rated OSRO in a contingency plan relieve the plan holders of their ultimate statutory and regulatory responsibility to ensure the adequacy of the spill response resources identified in their contingency plan.

(b) Timeframes:

~~(1) Plans shall be submitted to the Administrator by April 1, 1994.~~

~~(21)~~ Any A marine facility that first begins operating after the due date for initial plan submittal shall submit a plan that is received by OSPR at least 180 days prior to the beginning of operations. Changes in ownership of a marine facility will require a new plan to be submitted at least 60 days prior to the change in ownership.

~~(32)~~ Any A tank vessel that first begins operating in California marine waters after the due date for initial plan submittal shall submit a plan that is received by OSPR at least five working days prior to entering California marine waters.

(c) Receiving Agencies:

(1) One copy of the plan (either hard copy or electronic media – see Section 816.02) for each marine facility and each tank vessel shall be delivered to the Planning Marine Safety Branch of the Office of Oil Spill Prevention and Response (OSPR) of the Department of Fish and Game. Delivery of the plan may be in person or by registered mail with return receipt requested, or the equivalent. Additional hard copies shall be provided to an OSPR regional office; upon request.

(2) Two copies of the plan (hard copy or electronic media) for each marine facility shall be delivered by the plan holder to the California State Lands Commission.

(3) Within two working days of a request from the Administrator, additional copies (hard copy or electronic media) shall be mailed by the plan holder to other member agencies of the State Interagency Oil Spill Committee and the State Oil Spill Technical Advisory Committee.

(4) Any additional copies shall be submitted within two working days of a request by the Administrator.



~~(5) In addition to the original hard copy of the contingency plan, a copy may be provided to OSPR on electronic media, in a format approved by the Administrator.~~

(d) Confidentiality:

(1) A plan holder may request that proprietary information be kept confidential. Such a request must include justification for designating the information as confidential. The Administrator will make a determination regarding that information which may be considered confidential and removed from any copy of the plan that is made available for public review.

(A) A plan holder may also request that any reports, or studies prepared or submitted under any contingency plan requirements be designated as proprietary information. Such a request must include justification for designating the report or study, such as drill reports or any background information developed for the Risk and Hazard Analysis, as confidential.

(2) Any information designated as confidential must be clearly identified as proprietary.

(3) If a plan holder designates information as confidential, two different copies of the plan must be submitted as follows:

(A) one copy must contain the confidential information. This plan will be utilized by the Administrator in the review and approval process;

(B) one copy must be submitted with the confidential information removed. This copy will be available for public review. This plan must contain sufficient information in place of the confidential information so that any individual reviewing the plan will understand all the notification, prevention and response elements of the plan.

(C) Any plan submitted to any state agency, as required by this section, must include all confidential information.

Note: Authority cited: Sections 8670.28, 8670.29, 8670.30 and 8670.31 , Government Code.

Reference: Sections 8670.28, 8670.29, 8670.30, 8670.31 and 8670.36, Government Code.

## 816.02 PLAN FORMAT

OSPR will accept either an original hard copy of the contingency plan or a CD-ROM formatted contingency plan with an original, signed copy of the "Feasibility and Executability Statement" required by this subchapter. Other documents required to be submitted with the contingency plan, such as signed contracts with Oil Spill Response Organizations, may be scanned on the CD using Adobe Acrobat. Although not required, it is requested that the Table of Contents be linked to the different sections of the plan. Also, if a Federal Vessel Response Plan (VRP) or other non-California plan format it used, it is requested that the plan be electronically linked to the plan sections that comply with California's requirements. Each plan shall be organized into separate volumes: a response manual and a principal volume or volumes with related appendices. The format for each is outlined below:

(a) Response Manual

A simplified response manual suitable for on-scene use in the event of a spill which summarizes key notification information and the initial response actions specified in the plan shall be prepared and submitted with each plan.

- (1) The response manual is a subset of the information provided in the principal volume of the plan.
  - (2) The information contained in the response manual shall be sufficient to direct on-scene response personnel through the first 24 hours of a response.
- (b) Principal Volume of the Plan
- (1) The principal volume shall include all the required information including a summary of the conclusions of all studies, calculations and analyses.
  - (2) The principal volume of each plan shall be organized to facilitate access to information, and shall include:
    - (A) a detailed table of contents with chapters arranged, to the extent possible, in the same order in which the requirement for that information appears in Sections 817.02, ~~and~~ 817.03 ~~for marine facilities, or Sections 818.02 and or 818.03 for vessels;~~
    - (B) a system of numbered chapters, sections and appendices;
    - (C) index tabs for locating plan chapters;
    - (D) a log sheet placed in the front of the plan for recording all amendments and updates; and
    - (E) amendments and updates that are consecutively numbered and dated.
  - (3) ~~Each~~ If hard copies of the plan are submitted, they shall be submitted in an 8 1/2 by 11 inch 3-ring binder, in a loose-leaf format to allow replacement of chapter or appendix pages without requiring replacement of the entire plan. Amendments and updates shall be hole-punched and in a format that will fit the binder that was submitted with the plan.
  - (4) If a fleet, or ~~blanket or regional~~ plan is used, the principal volume of the plan will include all the information generic to all the marine facilities or tank vessels covered by the plan.
  - (5) All hard copy and electronic documents submitted will become the property of the Administrator. The documents will be retained by the Administrator for a minimum of three (3) years, unless the contingency plan is withdrawn by the submitter.
- (c) Appendices
- (1) Tank Vessel-Specific Appendix  
If a fleet ~~or regional~~ plan is used, each plan must include an appendix for each tank vessel covered by the plan. The vessel-specific appendix must provide the descriptive information regarding layout and design unique to that tank vessel.
  - (2) Marine Facility-Specific Appendix  
If a ~~blanket or regional~~ plan is used each plan must include an appendix for each marine facility covered by the plan. The facility-specific appendix must address all the required information unique to that facility.
  - (3) Geographic-Specific Appendix to Tank Vessel Plans

Each tank vessel plan must include an appendix to address the geographic-specific elements along the tank vessel's normal routes of travel. This appendix must include:

- (A) all required notification information for each Geographic Region in which the tank vessel operates;
- (B) identification of the oil spill response organizations to be used in each of the six Geographic Regions, as defined in Chapter 1, Section 790 of this subdivision, along the tank vessel's normal routes of travel; and
- (C) a copy of the written contract or other approved means (as defined in Section 815.05(b) of this subchapter) that will verify that the oil spill response organization(s) that are named in the plan will provide the requisite equipment and personnel in the event of an oil spill.

(4) Drill Schedule Appendix

New plans shall include a schedule of drills and exercises, as described in CCR Section 820.01(d)(2).

(d) Substitute Plans

If a substitute plan is submitted, such as a plan prepared for the State Lands Commission, the Minerals Management Service, or the United States Coast Guard, the following must also be submitted:

- (1) a listing of all the elements of the individual tank vessel or marine facility's contingency plan that will be replaced by elements in the substitute plan, with an index specifying the location of the required elements, by regulation section, within the substitute plan;
- (2) any required prevention or response element not included in the substitute plan must be submitted as an appendix to the substitute plan; and
- (3) a copy of the response manual required by this section.

~~(e) Wallet-Sized Card/Posted Information~~

~~The immediate response and notification information shall be summarized on a wallet-sized card, or on a poster located in a conspicuous place. This information shall include the names and telephone numbers of the individuals, agencies and organizations who must be immediately notified when a spill occurs. A copy of the card or poster shall be submitted with the plan.~~

Note: Authority cited: Section 8670.28, Government Code. Reference: Section 8670.28, Government Code.

816.03 PLAN REVIEW AND APPROVAL

(a) Timeframes

- (1) Each Plan shall be approved or denied within 180 days after receipt by the Administrator.
- (2) Any state agency or committee that reviews the contingency plans shall submit any comments to the Administrator within 60 days of receipt of the plan by the agency or committee.

- (3) The Administrator shall determine whether each plan complies with the regulations governing the contingency planning process. If it is determined that a plan is inadequate a written explanation of deficiencies and, if practicable, suggested modifications or alternatives shall be sent to the plan holder.
  - (4) Upon notification of a plan's deficiencies, the plan holder will have 90 days to submit a new or modified plan. Such a re-submittal shall be treated as a new submittal and processed according to the provisions of this section.
- (b) Determination of Adequacy:
- (1) A plan will be determined to be adequate if it provides for the best achievable protection of coastal and marine resources and meets the requirements of this subchapter. To be approved, the plan must also demonstrate that each owner/operator maintains a level of readiness that will allow for effective implementation of the plan.
  - (2) To be determined adequate, each plan shall provide for all of the following:
    - (A) Prevention Measures:
      1. for marine facilities, all prevention measures to reduce or eliminate the hazards that could result in an oil spill as identified in the Risk and Hazard Analysis;
      2. for tank vessels, all prevention measures to reduce the possibility of an oil spill occurring as a result of allisions, collisions, groundings, explosions or operator error;
    - (B) immediate notification and mobilization of response resources upon the discovery of a spill;
    - (C) procedures for deployment and delivery of response equipment and personnel within the timeframes specified in Sections 817.02, ~~and 817.03, for marine facilities or Sections 818.02 and or 818.03 for vessels~~;
    - (D) procedures to assure protection of the environment from oil spills;
    - (E) procedures for timely and adequate clean up of all spills, up to and including the reasonable worst case spill;
    - (F) identification of response equipment, and the call-out procedures to acquire that equipment, to respond to any spill over and above the reasonable worst case spill, in a timely and efficient manner.
    - (G) all other prevention and response measures specified in Sections 817.02, ~~and 817.03, for marine facilities and Sections 818.02, and or 818.03 for vessels~~.
  - (3) In assessing the adequacy of a plan the Administrator shall consider:
    - (A) the volume and types of oil addressed by the plan;
    - (B) the history and circumstances of prior spills from the tank vessel, marine facility, small marine fueling facility, or vessel carrying oil as secondary cargo;
    - (C) existing operating hazards;

- (D) the sensitivity and value of the natural, cultural and commercial resources of the geographic area encompassed by the plan;
  - (E) the spill prevention, notification and response measures addressed in the plan; and
  - (F) the site-specific characteristics of a marine facility that could affect response and clean-up operations, including: local topography, prevailing winds, current speed and direction, tidal fluctuations, and access to the potential spill sites; or
  - (G) the area-specific characteristics along a tank vessel's normal routes of travel that could affect response and clean-up operations, including: prevailing winds, current speed and direction, tidal fluctuations, and access to the potential spill response sites.
- (4) Prior and subsequent to ~~considering a plan for~~ approval, the Administrator may make an on-site inspection and require a drill of all or part of any contingency plan submitted in order to determine the plan's adequacy.
- (c) Public Review and Comment
- Contingency plans will be made available for review by any interested member of the general public at a designated location.
- (1) Any person interested in reviewing the plan shall contact the Administrator to request an appointment to review the plan at the offices of OSPR. Copies of the plans will be provided at the cost of duplication.
  - (2) Any interested person may review a plan and submit written comments prior to the Administrator's approval of the initial plan or plan updates. Such comments will be taken into consideration in the Administrator's approval process. No comments will be accepted after final approval.
- (d) Plan Approval
- (1) A plan ~~for a marine facility~~ shall be approved if it addresses all the elements specified in Sections 817.02, ~~or~~ 817.03, 818.02, or 818.03, as appropriate, and complies with the adequacy criteria enumerated in this section.
  - ~~(2) A plan for a vessel shall be approved if it addresses all the elements specified in Sections 818.02 or 818.03 as appropriate, and complies with the adequacy criteria enumerated in this section.~~
  - ~~(32)~~ Any revised plan submitted by an owner/operator in response to a notification of inadequacy shall be considered approved unless otherwise notified by the Administrator within the timeframes established in Section 816.03(a).
  - ~~(43)~~ Any comments submitted by other agencies or interested parties shall be considered when approving or disapproving the plan.
  - ~~(54)~~ The plan holder shall be notified when a plan has been approved. A Letter of Approval will be issued by the Administrator and will describe the conditions of approval, if any, and specify the expiration date of the Letter of Approval.

(65) A plan will be considered to be effective upon submittal unless and until the owner/operator is notified that the plan is inadequate. Exceptions to this requirement will be considered by the Administrator on a case-by-case basis.

(e) Conditional Interim Approval

(1) A plan may be approved with minor deficiencies as long as the following conditionally if there is a minor deficiency in one or more of the requisite elements are included in the plan:

(A) Information to clearly identify the tank vessel or marine facility, including but not limited to:

1. for tank vessels: vessel name, call sign, official number, classification and owner/operator name, address and phone number;

2. for marine facilities: name and address of facility, name, address and phone number of the owner/operator.

(B) A copy of the contract(s) or other approved means for the response resources that meet the requirements of this subchapter;

(C) Identification, including telephone number and facsimile number, of a Qualified Individual;

(D) Appropriate and adequate evidence of financial responsibility.

(2) An Interim Approval shall only remain valid for 30 calendar days.

~~(1) The plan holder shall be notified of conditional approval. Such notice shall include a description of any deficiencies in the plan.~~

~~(A) Upon notification of a plan's deficiencies, the plan holder will have 90 days to submit a new plan, a modified plan, or corrections to the noted deficiencies. Such a re-submittal shall be treated as a new submittal and processed according to the provisions of this section.~~

~~(2) Conditional approval may require the vessel or marine facility to operate with specific precautionary measures until the deficient components are resubmitted and approved.~~

~~(A) Precautionary measures may include, but are not limited to: reducing oil transfer rates, increasing personnel levels or training requirements, restricting operations to daylight hours, or increasing availability of response equipment.~~

~~(B) Failure to comply with the conditional requirements in a timely manner will result in the revocation of conditional approval status.~~

(f) Denial or Revocation of Plan

(1) Approval shall be denied or revoked if a plan does not comply or maintain compliance with the criteria set forth in this Section (816.03).

(2) If approval is denied or revoked, the Administrator shall notify the plan holder in writing of the reasons for denial or revocation and provide an explanation of those actions necessary to secure approval.

(A) The plan holder shall have 90 calendar days from notification to submit a new or revised plan that incorporates the recommended changes, during which time the plan is considered effective pending final approval. If the plan holder fails to address plan deficiencies within 90 calendar days of notification, the plan may be denied a second time.

(B) ~~Failure to gain approval after the second submission may be determined to be a violation of this subchapter.~~ No tank vessel shall operate in marine waters if it fails to gain approval of its contingency plan after the second submission, or if a second denial was issued as noted in (A) above, until a subsequent submission is approved.

(C) If a marine facility fails to gain approval of its contingency plan after the second submission, or if a second denial was issued as noted in (A) above, the administrator may order it to discontinue operations until a subsequent submission is approved.

(D) If a plan holder fails to address plan deficiencies within 90 calendar days from notification of a second plan denial, the Administrator may, without further notice, declare the plan null and void.

~~(3) Upon determination of a violation the Administrator may order a vessel or marine facility to discontinue operations until a plan for that vessel or facility has been approved.~~

(g) Appeals

The plan holder may appeal a decision made by the Administrator regarding the contingency plan in accordance with the following provisions:

(1) the plan holder may submit a written request for reconsideration to the Administrator regarding any decision of ~~conditional~~ interim approval, denial, revocation of approval, or a request for exemption. Requests must be submitted within 15 working calendar days from the date the plan holder receives notice that approval of the plan has been denied. The request must contain the basis for the reconsideration and, if available, provide evidence which rebuts the basis for the Administrator's decision regarding the plan;

(2) within 15 working calendar days following the receipt of the request for reconsideration, the plan holder will either be sent a notice that the Administrator shall adhere to the earlier decision or that the decision has been rescinded;

(3) the plan holder may, within 15 working days after receipt of notice that reconsideration has been denied, request a hearing in writing. No such hearing may be requested unless and until all remedies pursuant to this section have been exhausted. The Administrator shall conduct a reconsideration hearing upon request;

(4) the proceedings and hearings under this section shall be conducted in accordance with Chapter 4.5 (commencing with Section 11400) of Part I of Division 3 of Title 2 of the Government Code, including the right of judicial review as provided for in Section 11460.80 of the Government Code.

(h) Proof of Approval

(1) Marine Facilities

The marine facility plan holder shall keep the Letter of Approval, or a copy certified to be true and accurate, filed in the front of the approved contingency plan. The approval letter shall be presented upon request to any representative of the Administrator.

(2) Tank Vessels

~~The vessel plan holder shall keep the Letter of Approval, or a copy certified to be true and accurate, filed in the front of the response manual. The approval letter~~ Letter of Approval shall be presented upon request to ~~any official representing the Administrator or to~~ the operator of a marine facility prior to an oil transfer.

(i) Liability

Approval of a plan does not constitute an express assurance regarding the adequacy of the plan in the event of a spill nor does it constitute a defense to liability on the part of the operator or owner.

(j) Coastal Protection Review

(1) Within one year of the adoption of this section, and within 18 months of subsequent updates, the Administrator shall conduct a comprehensive review of all the oil spill contingency plans for tank vessels and marine facilities.

(2) The comprehensive review shall be conducted to assure that the plans, as a whole, provide the best achievable protection of coastal resources. Each plan will be reviewed in conjunction with all the plans submitted by tank vessels and marine facilities located in or using the same ~~gGeographical r~~Region. The Geographic Regions to be used for the review of overall coastal protection are defined in Chapter 1, Section 790 of this subdivision.

(3) The Administrator shall evaluate the contingency plans for each ~~gGeographical r~~Region to determine if deficiencies exist in equipment, personnel, training and other elements determined to be necessary to ensure the best achievable protection for that region.

(4) If deficiencies are found to exist in overall protection, the Administrator shall remand any contingency plans to the plan holder with recommendations for any amendments necessary to adequately protect coastal resources in that ~~gGeographical r~~Region. Any plans returned for amendment shall be processed according to the procedures for initial submittal, review and approval of the contingency plan.

Note: Authority cited: Sections 8670.19, 8670.28, and 8670.31, Government Code. Reference: Sections 8670.19, 8670.28, and 8670.31, Government Code.

#### 816.04 PLAN IMPLEMENTATION AND USE

(a) Availability

(1) Marine Facility Plans

(A) A complete copy of the marine facility's approved plan must be maintained on-site if the facility is staffed, or at the nearest field office if the facility is not staffed.

(B) A copy of the response manual must be maintained at all sites covered by the plan.



- (C) Response manuals for pipeline facilities shall be maintained at all sites covered by the plan or where operations and maintenance activities are conducted.
- (2) Tank Vessel Plans
- (A) A complete copy of the tank vessel's contingency plan, including the response manual, must be maintained by the owner/operator.
- (B) A complete copy of the tank vessel's approved response manual must be maintained on board the tank vessel at all times.
- (3) The plan, or response manual, whichever is required, must be in a central location accessible to key response personnel at all times.
- (4) A complete copy of the contingency plan, including the response manual, must be maintained by the Qualified Individual and available for use in the event of an incident.
- (5) A complete copy of the contingency plan, including the response manual, must be maintained by the owner/operator and made available for review and inspection by all relevant state agencies upon request.
- (6) Immediate Notification Information
- ~~(A) The wallet sized card with the summary of immediate response and notification information shall be carried by all appropriate personnel while on duty; or~~
- ~~(B) The immediate response and notification information that is shall be summarized and on the wallet sized card, shall be posted in a conspicuous location with access to a telephone, or other similar means of communication.~~
- (b) Implementation
- (1) Each plan shall be effective upon submittal. Any element of the plan that can not be implemented upon submittal must be covered by a timetable for implementation. Elements included in the timetable may include such items as the purchase of equipment, or the implementation of specific prevention measures. The timetable must also include an explanation for the delay, and provide for full implementation within six months of plan submittal, unless an extension is authorized by the Administrator.
- (2) The owner/operator must implement the plan according to any timetable submitted as part of the plan.
- (3) An owner/operator, or any of his/her agents and employees shall use and implement the effective plan in the event of an oil spill or an oil spill drill.
- (4) Any deviation from any major element of the contingency plan must be approved by the Administrator in advance of the change. A major element is one that will affect timely and adequate oil spill response.
- (5) All involved parties, as defined, shall carry out whatever direction is given by the Administrator in connection with the response, containment, and clean up of a spill. A responsible party or potentially responsible party ~~(party)~~ may refuse to accept a directive from the Administrator if:

- (A) the directions of the Administrator are in direct conflict with directions from the Federal On-scene Coordinator Coast Guard; and/or
  - (B) the party reasonably, and in good faith, believes that the directions or orders given by the Administrator will substantially endanger the public safety or the environment.
- (6) If a party refuses to accept the directive of the Administrator, the party shall state the reason why they have refused at the time of refusal, and:
- (A) the party that has refused a directive shall follow up a verbal explanation of their refusal with a written notice to the Administrator explaining in full the reason(s) for refusing the directive. The written notice must be submitted within 48 hours of the refusal;
  - (B) the burden of proof shall be on the party to demonstrate, by clear and convincing evidence, why refusal to follow orders was justified.
- (7) Failure to implement the plan appropriately shall constitute a violation of this subchapter.
- (c) Coordination With Other Plans
- (1) Each plan shall be consistent with the State California Oil Spill Contingency Plan and not in conflict with the National ~~Oil & Hazardous Substances Pollution~~ Contingency Plan.
  - (2) Beginning with the first review and resubmission, each plan submitted shall be consistent with the appropriate Area Contingency Plan(s) completed by the Coast Guard, State Agencies, and Local Governments as required by the Oil Pollution Act of 1990 that are in effect on January 15 of the year in which the contingency plan update is required.

Note: Authority cited: Sections 8670.28 and 8670.31, Government Code. Reference: Sections 8670.27, 8670.28, 8670.28.5, 8670.29, 8670.30(a)(2), and 8670.57 through 8670.69.6, Government Code.

#### 816.05 PLAN UPDATES

- (a) Timeframes
  - (1) Update and Review
    - (A) All plans shall be resubmitted for review on April 1, 1996, and on April 1, 1998, and then once every five years thereafter from the date of approval . ~~The subsequent resubmittal filing dates shall conform to the date set for United States Coast Guard response plan filing, under the Oil Pollution Act of 1990 (OPA 90) (Pub. L. 101-380).~~
    - 1. A complete new plan must be resubmitted for ~~the update and~~ review only if there have been changes to the original plan or updates since the last submittal. If the original plan or submitted updates have ~~has~~ not changed, or the relevant Area Contingency Plan has not been amended, the owner/operator may submit a letter to the Administrator stating that the plan currently on file with the OSPR is up-to-date and complete.

(B) The Administrator may require earlier or more frequent resubmission than that required in Subparagraph (A). The owner/operator shall be notified in writing if an earlier update is required. The notice shall include an explanation for the reasons for the update. The circumstances that would warrant an earlier review or update include, but are not limited to, the following:

1. a change in regulations;
2. the development of new oil spill response technologies as determined by the Administrator during any review of Response Capability Standards;
3. deficiencies identified in the Administrator's review of all the oil spill contingency plans as part of the Coastal Protection Review;
4. an increased need to protect plant and wildlife habitat;
5. deficiencies in oil spill response capability identified during an oil spill;
6. deficiencies in oil spill response capability identified during an oil spill drill;
7. significant changes to the tank vessel or marine facility; and
8. any other situation deemed appropriate by the Administrator where deficiencies in the ability to provide timely and effective oil spill response are identified.

(2) Unscheduled Updates

(A) The Administrator shall be notified as soon as possible, but at least within 24 hours, of any significant change or update to an approved plan.

1. A significant change is one that could affect timely and adequate oil spill response including changes in tank vessel ownership and Financial Responsibility coverage.
2. Changes which are not significant include minor changes in equipment, personnel, or operating procedures which do not affect timely and adequate oil spill response.
3. As soon as administratively feasible, the Administrator will approve any change that would benefit the public health and safety, improve environmental protection, or facilitate more effective response, containment and clean up.

(b) Review and Approval of Plan Updates

- (1) The Administrator may deny approval of a resubmitted plan, or updated section(s) of a plan if it is no longer adequate according to the adopted regulations and policies in effect at the time of resubmission.
- (2) The review will be processed in accordance with the same timeframes and procedures for submission of the initial plan.

(c) Logging and Distributing the Revised Plan:

- (1) The plan holder shall distribute the revised plan page(s) to all plan recipients within 15 days of the Administrator's approval of the revisions. Faxed updates for insertion into the plan are not acceptable.
  - (2) The updated page(s) shall have an update number and date revised on the bottom of each page, and shall be accompanied by an index of updates that includes update number, date revised, page(s) revised, and subject matter of update. ~~In addition~~ As an alternative to the hard copy, this information may be submitted on electronic media, in a format approved by the Administrator (see Section 816.02(b)(3)).
  - (3) The log sheet, located in the front of the plan, shall be used to record the date the amendment was received, the initials of the individual who received the amendment, and a description of the change.
- (d) Each plan recipient must incorporate and utilize all updated materials as provided by the plan holder.

Note: Authority cited: Sections 8670.28 and 8670.31, Government Code. Reference: Sections 8670.19, 8670.28 and 8670.31, Government Code.

#### 816.06 ~~Compliance Requirements/Penalties~~ COMPLIANCE REQUIREMENTS/PENALTIES

Any person who knowingly, intentionally, or negligently violates any provision of this subchapter shall be subject to criminal, civil, and/or administrative civil actions as prescribed in Article 9, beginning with Section 8670.57 of the Government Code. Actions which constitute a violation of this subchapter shall include, but not be limited to, the following:

- (a) failure to submit the plan in a timely manner;
- (b) failure to implement any element of the plan as approved unless otherwise authorized by the Administrator or the U.S. Coast Guard through the Unified Command;
- (c) operating without an approved plan; or
- (d) failure to contract with an OSRO Rated by OSPR for booming, on-water recovery and storage, and shoreline protection services; or
- (e) failure to follow the direction or orders of the Administrator in connection with an oil spill, except as provided in Section 8670.27 of the Government Code.

Note: Authority cited: Section 8670.28, 8670.29, 8670.30, 8670.57 through 8670.69.6, Government Code. Reference: Sections 8670.29, 8670.30, 8670.31, and 8670.57 through 8670.69.6, Government Code.